

SENATE BILL 1671

By Massey

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 54 and Title 55, relative to highway safety.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Hannah Eimers Memorial Tennessee Roadside Safety Hardware Act".

SECTION 2. Tennessee Code Annotated, Title 54, Chapter 1, Part 1, is amended by adding the following as a new section:

(a)

(1) A crash cushion or guardrail end terminal located on a public road or highway maintained by the department of transportation must receive all crash tests applicable to that crash cushion or guardrail end terminal in accordance with the testing standards established by the federal highway administration prior to the installation of the crash cushion or guardrail end terminal.

(2) The crash tests must be conducted by a laboratory that has been accredited pursuant to standard ISO 17025 of the International Organization for Standardization (ISO), or other comparable standards required by the department.

(3) The laboratories conducting the crash tests must not be affiliated with the manufacturer of the crash cushion or guardrail end terminal being tested.

(b) Each manufacturer requesting that a crash cushion or guardrail end terminal be approved by the department for use on a public road or highway maintained by the department shall submit to the department a written certification attesting, under penalty

of perjury, that the crash cushion or guardrail end terminal has been tested in accordance with subsection (a).

(c)

(1) If a crash cushion or guardrail end terminal has been approved for use on a public road or highway maintained by the department, and if the manufacturer makes a change to the crash cushion or guardrail end terminal, its material makeup, or installation of the crash cushion or guardrail end terminal after the date of the original crash tests conducted on the crash cushion or guardrail end terminal, the manufacturer shall notify the department of the change, and the crash cushion or guardrail end terminal shall be removed and replaced until the manufacturer retests the crash cushion or guardrail end terminal in accordance with subsection (a) and submits certification of that retesting to the department in accordance with subsection (a).

(2) An altered crash cushion or guardrail end terminal that does not meet the standards set forth in subsection (a) must not be used on any public highway or road maintained by the department and must be removed and replaced.

(3) Failure to notify the department of a change pursuant to subdivision (c)(1) constitutes a material change to the crash cushion or guardrail end terminal and the manufacturer is subject to a civil penalty, after notice and hearing, of at least twenty-five thousand dollars (\$25,000) and not to exceed one hundred thousand dollars (\$100,000).

(d) Except as provided in subdivision (c)(3), the commissioner of transportation, after notice and hearing, may assess and collect a civil penalty of ten thousand dollars (\$10,000) from a manufacturer who violates this section.

(e) Each manufacturer of a crash cushion or guardrail end terminal approved for use on any public highway or road maintained by the department shall notify the department of any inspection of the crash cushion or guardrail end terminal prior to the scheduled inspection. During the course of the inspector's field duties, if an item requiring repair is identified, the manufacturer shall promptly notify the department.

(f) Within sixty (60) days of the effective date of this act, the department shall notify, by certified mail, each manufacturer of any guardrail end terminal or crash cushion that has been approved for use on the public highways and roads as of the effective date of this act, of the requirements of this section. The notification must state that unauthorized repairs or tampering with a crash cushion or guardrail end terminal on any public highway or road maintained by the department is considered a violation of this section and vandalism of a state highway structure and subject to § 54-1-134.

SECTION 3. This act takes effect July 1, 2022, the public welfare requiring it.